IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

OP.No. 19522 of 1999(Y)

PETITIONER:

***(MRS.LATHA CHANDY)**
XLIV/1503, RANJU VILLA,
LFC ROAD, KALOOR,
COCHIN – 682 017.

***(THE NAME OF PETITIONER IS CORRECTED AS MRS.LATHA CLAUDIE INSTEAD OF MRS. LATHA CHANDY AS PER ORDER DTD. 17/11/1999 IN CMP.NO.43109/1999)**

BY ADV. SRI.JOHN JOSEPH

RESPONDENTS:
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1. **THE SHIPPING CORPORATION OF INDIA LTD.,**
   SHIPPING HOUSE, 245, MADAME CAMA ROAD,
   BOMBAY – 400 021.

2. **ASST.MANAGER,**
   SHIPPING CORPORATION OF INDIA LTD.,
   PLOT 7A, CAT III, WILLINGDON ISLAND,
   COCHIN – 682 003.

BY ADV. SRI.K.P.VIJAYAN for R1 & R2
SRI.V.B.JINNAH
SRI.BOBBY MATHEW
SMT.C.B.SUMA DEVI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.19522/1999 Y

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE CONTINOUS DISCHARGE CERTIFICATE OF LATE C.J. CHANDIE, HUSBAND OF THE PETITIONER.**

EXT.P2: **COPY OF THE DEATH CERTIFICATE DATED 2/06/1998 ISSUED BY THE DOCTOR UNDER WHOSE TREATMENT LATE C.J.CHANDIE LOURDES HOSPITAL.**

EXT.P3: **COPY OF THE INSAJMU AGREEMENT FOR HOME TRADE SEAMEN.**

RESPONDENT'S EXHIBITS:

EXT.R1: **COPY OF THE DECLARATION GIVEN BY THE LATE SEAMAN SRI. C.J. CLAUDIE.**

EXT.R2: **COPY OF THE LETTER DTD. 9/11/98 TO THE PETITIONER FROM RESPONDENTS.**

EXT.R3: **COPY OF THE LETTER DTD. 19/06/98 BEARING NO.FPC/ DC442/CJ CLAUDIE/98 TO THE PETITIONER FROM RESPONDENTS.**

EXT.R4: **COPY OF THE LETTER DTD. 19/06/98 BEARING NO. FPC/DC442/CJ CALUDIE/98 TO THE PETITIONER FROM RESPONDENTS.**

/TRUE COPY/

KSS

S.SIRI JAGAN, J.

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O.P.No.19522 of 1999

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Dated this the 5th day of March, 2007

J U D G M E N T

The petitioner is the widow of a seaman, named C.L.Claudie, (mistakenly shown as C.J.Chandie in the original petition, but correctly shown in the Exhibits) who was employed with the 1st respondent. The said C.L.Claudie died of lung cancer. The petitioner claimed terminal benefits due to her on account of the death of her husband. This was answered by Exts.R3 and R4 letters, which read thus:

Ext.R3:

> "We refer to your letter dated 5/5/1998 informing sad demise of your beloved husband late C.J.Claudie at Lourdes Hospital, Kochi on 5/3/1998. As per certificate dated 2/6/1998 issued by Dr.santosh John Abraham of Lourdes Hospital, your husband was undergoing treatment for Cancer which according to our Solicitors, have no nexus with the employment. We therefore, cannot accept your claim for Death Compensation."

Ext.R4:

> We have to inform you that for the purpose of claiming terminal benefits like Provident Fund, Gratuity etc; you will have to first get his CDC Book

> cancelled from The Shipping Master, Mumbai. For claiming Gratuity you will have to make an application enclosing cancelled CDC, addressed to SCI Fleet Personnel Accounts dept., Shipping House, 1st Floor, Madam Cama Road, Mumbai 400021. Similarly you will have to claim Provident Fund from The Office of Seamen's Provident Fund Commissioner, "Kripanidhi", 3rd Floor, 9, Walchand Hirachand Marg, Mumbai, 400001."

As far as Ext.R3 is concerned, since late C.J.Claudie died of lung cancer, Ext.R3 cannot be faulted, since lung cancer cannot have a nexus with his employment and therefore, the petitioner may not be entitled to death compensation as claimed by her.

2. But as regards the provident fund and gratuity amounts, I am of opinion that the 1st respondent cannot take a technical attitude as the one taken in Ext.R4 by directing the poor widow to go to Mumbai and get cancellation of CDC etc. It was very well within the powers of the 1st respondent to get all procedural formalities required for disbursement of the provident fund and gratuity amounts due to the petitioner on the death of late C.J.Claudie, which they should have done in view of the circumstances of the poor widow. In the

above circumstances, there would be a direction to the 1st respondent to get the cancellation of CDC book by the Shipping Master, Mumbai and all other procedural formalites stated in Ext.R4 or other formalities which are necessary for enabling the petitioner to get the provident fund and gratuity amounts due to her, carried out. The first respondent themselves shall do all whatever necessary in the matter, without troubling the poor widow, who, sitting in Kochi, would not be in a position to get all those procedural formalities done. This the respondents shall do and pay to the petitioner all provident fund and gratuity amounts due to her on account of the death of her husband, within two months from the date of receipt of a copy of this judgment.

Original petition is disposed of as above.

Interlocutory applications stand closed.

sdk+ S.SIRI JAGAN, JUDGE

S.SIRI JAGAN, J.

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O.P.No.19522 of 1999 Y

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J U D G M E N T

5th March, 2007